

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

|  |   |                               |
|--|---|-------------------------------|
| Samuel Lee Grier,                        | ) | C.A. No. 4:05-cv-0426-TLW-TER |
|  | ) |                               |
| Plaintiff,                               | ) |                               |
|  | ) |                               |
| vs.                                      | ) | ORDER                         |
|  | ) |                               |
| Jimmy Cappo, Jr., Officer for Georgetown | ) |                               |
| County Sheriff's Department; and         | ) |                               |
| A. Lane Cribb, Sheriff of the Georgetown | ) |                               |
| County Sheriff's Department,             | ) |                               |
|  | ) |                               |
| Defendant.                               | ) |                               |
|  | ) |                               |

This matter is now before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Thomas E. Rogers, III, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.). In his Report, Magistrate Judge Rogers recommends that the defendants’ motion to dismiss or in the alternative for summary judgment be denied at this time. (Doc. # 34). The Report further recommends that, if this Court adopts the Report and Recommendation, the defendants be given thirty (30) days to re-file their motion, along with attached affidavits and exhibits, and to serve plaintiff with a complete copy of their motion and memorandum. Id. Plaintiff has filed objections to the Report. (Doc. # 35).

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or

specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of this standard, the Court has reviewed, de novo, the Report and the objections thereto. The Court accepts the Report.

**THEREFORE, IT IS HEREBY ORDERED** that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 34), plaintiff's objections are **OVERRULED** (Doc. # 35); and the defendants' motion to dismiss or in the alternative for summary judgment is **DENIED** at this time. (Doc. # 25). The defendants shall have thirty (30) days to re-file their motion, along with attached affidavits and exhibits, and to serve plaintiff with a complete copy of their motion and memorandum. Upon any such re-filing, a new Roseboro Order shall issue giving the plaintiff time to respond to the motion for summary judgment with the attached exhibits.

**IT IS SO ORDERED.**

s/ Terry L. Wooten  
**TERRY L. WOOTEN**  
**UNITED STATES DISTRICT JUDGE**

June 8, 2006  
Florence, South Carolina